

108TH CONGRESS  
1ST SESSION

# H. R. 1440

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2003

Mr. FOLEY (for himself, Mr. ACKERMAN, Mr. GARRETT of New Jersey, Mr. McNULTY, Mr. FROST, Ms. ROS-LEHTINEN, Mr. MCGOVERN, Mr. BERMAN, and Mr. BARTLETT of Maryland) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Anti-Atrocity Alien De-  
5       portation Act of 2003”.

6       **SEC. 2. INADMISSIBILITY AND DEPORTABILITY OF ALIENS**  
7                       **WHO HAVE COMMITTED ACTS OF TORTURE**  
8                       **OR EXTRAJUDICIAL KILLINGS ABROAD.**

9       (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the  
10       Immigration and Nationality Act (8 U.S.C.  
11       1182(a)(3)(E)) is amended—

12               (1) in clause (ii), by striking “has engaged in  
13       conduct that is defined as genocide for purposes of  
14       the International Convention on the Prevention and  
15       Punishment of Genocide is inadmissible” and insert-  
16       ing “ordered, incited, assisted, or otherwise partici-  
17       pated in conduct outside the United States that  
18       would, if committed in the United States or by a  
19       United States national, be genocide, as defined in  
20       section 1091(a) of title 18, United States Code, is  
21       inadmissible”;

22               (2) by adding at the end the following:

23                       “(iii) COMMISSION OF ACTS OF TOR-  
24                       TURE OR EXTRAJUDICIAL KILLINGS.—Any  
25                       alien who, outside the United States, has

1 committed, ordered, incited, assisted, or  
2 otherwise participated in the commission  
3 of—

4 “(I) any act of torture, as de-  
5 fined in section 2340 of title 18,  
6 United States Code; or

7 “(II) under color of law of any  
8 foreign nation, any extrajudicial kill-  
9 ing, as defined in section 3(a) of the  
10 Torture Victim Protection Act of  
11 1991 (28 U.S.C. 1350 note);

12 is inadmissible.”; and

13 (3) in the subparagraph heading, by striking  
14 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-  
15 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-  
16 CUTION, GENOCIDE, OR THE COMMISSION OF ANY  
17 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

18 (b) DEPORTABILITY.—Section 237(a)(4)(D) of such  
19 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

20 (1) by striking “clause (i) or (ii)” and inserting  
21 “clause (i), (ii), or (iii)”; and

22 (2) in the subparagraph heading, by striking  
23 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN  
24 GENOCIDE” and inserting “PARTICIPATED IN NAZI

1 PERSECUTION, GENOCIDE, OR THE COMMISSION OF  
 2 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

3 (c) EFFECTIVE DATE.—The amendments made by  
 4 this section shall apply to offenses committed before, on,  
 5 or after the date of the enactment of this Act.

6 **SEC. 3. INADMISSIBILITY AND DEPORTABILITY OF FOR-**  
 7 **EIGN GOVERNMENT OFFICIALS WHO HAVE**  
 8 **COMMITTED PARTICULARLY SEVERE VIOLA-**  
 9 **TIONS OF RELIGIOUS FREEDOM.**

10 (a) GROUND OF INADMISSIBILITY.—Section  
 11 212(a)(2)(G) of the Immigration and Nationality Act (8  
 12 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

13 “(G) FOREIGN GOVERNMENT OFFICIALS  
 14 WHO HAVE COMMITTED PARTICULARLY SEVERE  
 15 VIOLATIONS OF RELIGIOUS FREEDOM.—Any  
 16 alien who, while serving as a foreign govern-  
 17 ment official, was responsible for or directly  
 18 carried out, at any time, particularly severe vio-  
 19 lations of religious freedom, as defined in sec-  
 20 tion 3 of the International Religious Freedom  
 21 Act of 1998 (22 U.S.C. 6402), is inadmis-  
 22 sible.”.

23 (b) GROUND OF DEPORTABILITY.—Section 237(a)(4)  
 24 of the Immigration and Nationality Act (8 U.S.C.

1 1227(a)(4)) is amended by adding at the end the fol-  
2 lowing:

3 “(E) PARTICIPATED IN THE COMMISSION  
4 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-  
5 DOM.—Any alien described in section  
6 212(a)(2)(G) is deportable.”.

7 **SEC. 4. WAIVER OF INADMISSIBILITY.**

8 Section 212(d)(3) of the Immigration and Nationality  
9 Act (8 U.S.C. 1182(d)(3)) is amended—

10 (1) in subparagraph (A), by striking “and  
11 3(E)” and inserting “and clauses (i) and (ii) of  
12 paragraph (3)(E)”; and

13 (2) in subparagraph (B), by striking “and  
14 3(E)” and inserting “and clauses (i) and (ii) of  
15 paragraph (3)(E)”.

16 **SEC. 5. BAR TO GOOD MORAL CHARACTER FOR ALIENS**  
17 **WHO HAVE COMMITTED ACTS OF TORTURE,**  
18 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**  
19 **LATIONS OF RELIGIOUS FREEDOM.**

20 Section 101(f) of the Immigration and Nationality  
21 Act (8 U.S.C. 1101(f)) is amended—

22 (1) by striking the period at the end of para-  
23 graph (8) and inserting “; and”; and

24 (2) by adding at the end the following:

1           “(9) one who at any time has engaged in con-  
 2       duct described in section 212(a)(3)(E) (relating to  
 3       assistance in Nazi persecution, participation in geno-  
 4       cide, or commission of acts of torture or  
 5       extrajudicial killings) or 212(a)(2)(G) (relating to  
 6       severe violations of religious freedom).”.

7   **SEC. 6. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**  
 8                           **VESTIGATIONS.**

9       (a) AMENDMENT OF THE IMMIGRATION AND NA-  
 10      TIONALITY ACT.—Section 103 of the Immigration and  
 11      Nationality Act (8 U.S.C. 1103) is amended by adding  
 12      at the end the following:

13           “(h)(1) The Attorney General shall establish within  
 14      the Criminal Division of the Department of Justice an Of-  
 15      fice of Special Investigations with the authority to detect  
 16      and investigate, and, where appropriate, to take legal ac-  
 17      tion to denaturalize any alien described in section  
 18      212(a)(3)(E).

19           “(2) The Attorney General shall consult with the Sec-  
 20      retary of the Department of Homeland Security in making  
 21      determinations concerning the criminal prosecution or ex-  
 22      tradition of aliens described in section 212(a)(3)(E).

23           “(3) In determining the appropriate legal action to  
 24      take against an alien described in section 212(a)(3)(E),  
 25      consideration shall be given to—

1           “(A) the availability of criminal prosecution  
2           under the laws of the United States for any conduct  
3           that may form the basis for removal and  
4           denaturalization; or

5           “(B) the availability of extradition of the alien  
6           to a foreign jurisdiction that is prepared to under-  
7           take a prosecution for such conduct.”.

8           (b) AUTHORIZATION OF APPROPRIATIONS.—

9           (1) IN GENERAL.—There are authorized to be  
10          appropriated to the Department of Justice such  
11          sums as may be necessary to carry out the addi-  
12          tional duties established under section 103(h) of the  
13          Immigration and Nationality Act (as added by this  
14          Act) in order to ensure that the Office of Special In-  
15          vestigations fulfills its continuing obligations regard-  
16          ing Nazi war criminals.

17          (2) AVAILABILITY OF FUNDS.—Amounts appro-  
18          priated pursuant to paragraph (1) are authorized to  
19          remain available until expended.

20       **SEC. 7. REPORT ON IMPLEMENTATION OF THE ACT.**

21          Not later than 180 days after the date of enactment  
22          of this Act, the Attorney General, in consultation with the  
23          Secretary of Homeland Security, shall submit to the Com-  
24          mittees on the Judiciary of the Senate and the House of

1 Representatives a report on implementation of this Act  
2 that includes a description of—

3           (1) the procedures used to refer matters to the  
4       Office of Special Investigations and other compo-  
5       nents within the Department of Justice and the De-  
6       partment of Homeland Security in a manner con-  
7       sistent with the amendments made by this Act;

8           (2) the revisions, if any, made to immigration  
9       forms to reflect changes in the Immigration and Na-  
10      tionality Act made by the amendments contained in  
11      this Act; and

12          (3) the procedures developed, with adequate due  
13      process protection, to obtain sufficient evidence to  
14      determine whether an alien may be inadmissible  
15      under the terms of the amendments made by this  
16      Act.

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